

**State and Consumer Services Agency
Eliminate the Office of Privacy Protection
Trailer Bill**

Repeal Government Code Section 11549.5 as follows:

~~11549.5. (a) There is hereby created, in the State and Consumer Services Agency, the Office of Privacy Protection. The purpose of the Office of Privacy Protection shall be to protect the privacy of individuals' personal information in a manner consistent with the California Constitution by identifying consumer problems in the privacy area and facilitating the development of fair information practices in adherence with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and to promote and protect consumer privacy to ensure the trust of the residents of this state.~~

~~—(b) The Office of Privacy Protection shall inform the public of potential options for protecting the privacy of, and avoiding the misuse of, personal information.~~

~~—(c) The Office of Privacy Protection shall make recommendations to organizations for privacy policies and practices that promote and protect the interests of the consumers of this state.~~

~~—(d) The Office of Privacy Protection may promote voluntary and mutually agreed upon nonbinding arbitration and mediation of privacy-related disputes where appropriate.~~

~~—(e) The Office of Privacy Protection shall do all of the following:~~

~~—(1) Receive complaints from individuals concerning a person obtaining, compiling, maintaining, using, disclosing, or disposing of personal information in a manner that may be potentially unlawful or violate a stated privacy policy relating to that individual, and provide advice, information, and referral, where available.~~

~~—(2) Provide information to consumers on effective ways of handling complaints that involve violations of privacy-related laws, including identity theft and identity fraud. If appropriate local, state, or federal agencies are available to assist consumers with those complaints, the office shall refer those complaints to those agencies.~~

~~—(3) Develop informational and educational programs and materials to foster public understanding and recognition of the purposes of this article.~~

~~—(4) Assist and coordinate in the training of local, state, and federal law enforcement agencies regarding identity theft and other privacy-related crimes, as appropriate.~~

~~—(5) The authority of the Office of Privacy Protection to adopt regulations under this article shall be limited exclusively to those regulations necessary and appropriate to implement subdivisions (b), (c), (d), and (e).~~

Repeal Government Code Section 11549.7 as follows:

~~11549.7. The Office of Privacy Protection shall be under the direction of a director who shall report to the Secretary of State and Consumer Services and lead the Office of Privacy Protection in carrying out its mission.~~

Repeal Government Code Section 11549.8 as follows:

~~11549.8. As used in this article, the following terms have the following meanings:~~

~~—(a) "Director" means the Director of the Office of Privacy Protection.~~

~~—(b) "Office" means the Office of Privacy Protection.~~

Amend Government Code Section 12804 as follows:

12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment

and Housing; ~~the Fair Employment and Housing Commission;~~ the California Science Center; the California Victim Compensation and Government Claims Board; the California African American Museum; the California Building and Standards Commission; and the Alfred E. Alquist Seismic Safety Commission_; ~~and the Office of Privacy Protection.~~

Amend Government Code Section 27305 as follows:

27305. (a) To assist the Legislature in monitoring the progress of each county recorder's social security number truncation program, the County Recorders Association of California, no later than January 1, 2009, and annually thereafter, shall submit to the chairpersons of the Assembly Committee on Judiciary and of the Senate Committee on Judiciary, ~~and to the Office of Privacy Protection, or any successor agency,~~ a report on the progress each county recorder has made in complying with this article.

(b) ~~Upon the Office of Privacy Protection making a determination that all counties have completed the component of the program described in subdivision (a) of Section 27301, the report described in subdivision (a) of this section shall no longer be required.~~

Repeal Education Code Section 27305 as follows:

~~66018.55. (a) As used in this section, "college and university" includes all institutions of public higher education and all independent institutions of higher education.~~

~~—(b) The Office of Privacy Protection in the Department of Consumer Affairs shall establish a task force to conduct a review of the use by all colleges and universities of social security numbers in order to recommend practices to minimize the collection, use, storage, and retention of social security numbers in relation to academic and operational needs and applicable legal requirements.~~

~~—(c) The task force shall be known as the "College and University Social Security Number Task Force." The Office of Privacy Protection shall determine the composition of the task force, which shall include, but not be limited to, all of the following:~~

~~—(1) Two representatives from each of the three institutions of public higher education.~~

~~—(2) Two representatives of the California Association of Independent Colleges and Universities.~~

~~—(3) Two representatives each from two organizations devoted to the protection of personal privacy.~~

~~—(4) One representative from a national organization devoted to the management of information technology in higher education.~~

~~—(5) One representative from the business community with expertise in technological solutions to privacy concerns.~~

~~—(6) One representative each from the Assembly Committee on Judiciary and the Senate Committee on Judiciary.~~

~~—(d) The task force shall seek input, as deemed necessary and appropriate, from all of the following:~~

~~—(1) Representatives of organizations with expertise in technical policy and practices of Internet disclosure, privacy policy relevant to Internet disclosure, and fostering public integrity and accountability.~~

~~—(2) The constituencies of the college and university communities, including students, staff, and faculty.~~

~~—(e) The task force shall review and make recommendations to minimize the collection, use, storage, and retention of social security numbers by California colleges and universities and shall include, but not be limited to, all of the following:~~

~~—(1) A survey of best practices at colleges and universities and the costs of implementing those best practices.~~

~~—(2) The necessary use and protection of social security numbers for all of the following:~~

~~—(A) Research purposes.~~

~~—(B) Academic purposes, including, but not limited to, academic research, admission, financial aid, and other related operational uses.~~

- ~~—(C) Operational uses by academic medical centers, including, but not limited to, patient identification, tracking, and care.~~
- ~~—(D) Business purposes, including, but not limited to, the provision of employee benefits, tax purposes, loan programs, and other requirements imposed by current state and federal statutes and regulations.~~
- ~~—(E) Another operational need of the college or university.~~
- ~~—(3) Current personal privacy protections provided to students, applicants, staff, and faculty of colleges and universities.~~
- ~~—(4) Existing state and federal legal requirements, including regulatory requirements, mandating the use of social security numbers at colleges and universities.~~
- ~~—(5) The possible use of personal identifiers or other substitutes for social security numbers that protect personal information and meet the operational needs of colleges and universities.~~
- ~~—(6) The cost of funding any recommendations presented by the task force, including those that are of minimal cost and can be implemented immediately and those that require additional funding or time to implement.~~
- ~~—(f) The task force shall commence meetings no later than May 1, 2008.~~
- ~~—(g) (1) On or before July 1, 2010, the task force shall submit a final report of its findings and recommendations to the Office of Privacy Protection, and to the Assembly Committee on Judiciary and the Senate Committee on Judiciary.~~
- ~~—(2) The final report shall also include a list of the existing uses of social security numbers common among colleges and universities for routine operations and compliance with state and federal laws.~~
- ~~—(3) The findings and recommendations of the task force shall be informational only and shall not be binding on any college or university.~~

Amend Financial Code Section 4053 as follows:

4053. (a) (1) A financial institution shall not disclose to, or share a consumer's nonpublic personal information with, any nonaffiliated third party as prohibited by Section 4052.5, unless the financial institution has obtained a consent acknowledgment from the consumer that complies with paragraph (2) that authorizes the financial institution to disclose or share the nonpublic personal information. Nothing in this section shall prohibit or otherwise apply to the disclosure of nonpublic personal information as allowed in Section 4056. A financial institution shall not discriminate against or deny an otherwise qualified consumer a financial product or a financial service because the consumer has not provided consent pursuant to this subdivision and Section 4052.5 to authorize the financial institution to disclose or share nonpublic personal information pertaining to him or her with any nonaffiliated third party. Nothing in this section shall prohibit a financial institution from denying a consumer a financial product or service if the financial institution could not provide the product or service to a consumer without the consent to disclose the consumer's nonpublic personal information required by this subdivision and Section 4052.5, and the consumer has failed to provide consent. A financial institution shall not be liable for failing to offer products and services to a consumer solely because that consumer has failed to provide consent pursuant to this subdivision and Section 4052.5 and the financial institution could not offer the product or service without the consent to disclose the consumer's nonpublic personal information required by this subdivision and Section 4052.5, and the consumer has failed to provide consent. Nothing in this section is intended to prohibit a financial institution from offering incentives or discounts to elicit a specific response to the notice.

(2) A financial institution shall utilize a form, statement, or writing to obtain consent to disclose nonpublic personal information to nonaffiliated third parties as required by Section 4052.5 and this subdivision. The form, statement, or writing shall meet all of the following criteria:

(A) The form, statement, or writing is a separate document, not attached to any other document.

(B) The form, statement, or writing is dated and signed by the consumer.

(C) The form, statement, or writing clearly and conspicuously discloses that by signing, the consumer is consenting to the disclosure to nonaffiliated third parties of nonpublic personal information pertaining to the consumer.

(D) The form, statement, or writing clearly and conspicuously discloses (i) that the consent will remain in effect until revoked or modified by the consumer; (ii) that the consumer may revoke the consent at any time; and (iii) the procedure for the consumer to revoke consent.

(E) The form, statement, or writing clearly and conspicuously informs the consumer that (i) the financial institution will maintain the document or a true and correct copy; (ii) the consumer is entitled to a copy of the document upon request; and (iii) the consumer may want to make a copy of the document for the consumer's records.

(b) (1) A financial institution shall not disclose to, or share a consumer's nonpublic personal information with, an affiliate unless the financial institution has clearly and conspicuously notified the consumer annually in writing pursuant to subdivision (d) that the nonpublic personal information may be disclosed to an affiliate of the financial institution and the consumer has not directed that the nonpublic personal information not be disclosed. A financial institution does not disclose information to, or share information with, its affiliate merely because information is maintained in common information systems or databases, and employees of the financial institution and its affiliate have access to those common information systems or databases, or a consumer accesses a Web site jointly operated or maintained under a common name by or on behalf of the financial institution and its affiliate, provided that where a consumer has exercised his or her right to prohibit disclosure pursuant to this division, nonpublic personal information is not further disclosed or used by an affiliate except as permitted by this division.

(2) Subdivision (a) shall not prohibit the release of nonpublic personal information by a financial institution with whom the consumer has a relationship to a nonaffiliated financial institution for purposes of jointly offering a financial product or financial service pursuant to a written agreement with the financial institution that receives the nonpublic personal information provided that all of the following requirements are met:

(A) The financial product or service offered is a product or service of, and is provided by, at least one of the financial institutions that is a party to the written agreement.

(B) The financial product or service is jointly offered, endorsed, or sponsored, and clearly and conspicuously identifies for the consumer the financial institutions that disclose and receive the disclosed nonpublic personal information.

(C) The written agreement provides that the financial institution that receives that nonpublic personal information is required to maintain the confidentiality of the information and is prohibited from disclosing or using the information other than to carry out the joint offering or servicing of a financial product or financial service that is the subject of the written agreement.

(D) The financial institution that releases the nonpublic personal information has complied with subdivision (d) and the consumer has not directed that the nonpublic personal information not be disclosed.

(E) Notwithstanding this section, until January 1, 2005, a financial institution may disclose nonpublic personal information to a nonaffiliated financial institution pursuant to a preexisting contract with the nonaffiliated financial institution, for purposes of offering a financial product or financial service, if that contract was entered into on or before January 1, 2004. Beginning on January 1, 2005, no nonpublic personal information may be disclosed pursuant to that contract unless all the requirements of this subdivision are met.

(3) Nothing in this subdivision shall prohibit a financial institution from disclosing or sharing nonpublic personal information as otherwise specifically permitted by this division.

(4) A financial institution shall not discriminate against or deny an otherwise qualified consumer a financial product or a financial service because the consumer has directed pursuant to this subdivision that nonpublic personal information pertaining to him or her not be disclosed. A financial institution shall not be required to offer or provide products or services offered through affiliated entities or jointly with nonaffiliated financial institutions pursuant to paragraph (2) where the consumer has directed that nonpublic personal information not be disclosed pursuant to this subdivision and the financial institution could not offer or provide the products or services to the consumer without disclosure of the consumer's nonpublic personal information that the consumer has directed not be disclosed pursuant to this subdivision. A financial institution shall not be liable for failing to offer or provide products or services offered through affiliated entities or jointly with nonaffiliated financial institutions pursuant to paragraph (2) solely because the consumer has directed that nonpublic personal information not be disclosed pursuant to this subdivision and the financial institution could not offer or provide the products or services to the consumer without

disclosure of the consumer's nonpublic personal information that the consumer has directed not be disclosed to affiliates pursuant to this subdivision. Nothing in this section is intended to prohibit a financial institution from offering incentives or discounts to elicit a specific response to the notice set forth in this division. Nothing in this section shall prohibit the disclosure of nonpublic personal information allowed by Section 4056.

(5) The financial institution may, at its option, choose instead to comply with the requirements of subdivision (a).

(c) Nothing in this division shall restrict or prohibit the sharing of nonpublic personal information between a financial institution and its wholly owned financial institution subsidiaries; among financial institutions that are each wholly owned by the same financial institution; among financial institutions that are wholly owned by the same holding company; or among the insurance and management entities of a single insurance holding company system consisting of one or more reciprocal insurance exchanges which has a single corporation or its wholly owned subsidiaries providing management services to the reciprocal insurance exchanges, provided that in each case all of the following requirements are met:

(1) The financial institution disclosing the nonpublic personal information and the financial institution receiving it are regulated by the same functional regulator; provided, however, that for purposes of this subdivision, financial institutions regulated by the Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration, or a state regulator of depository institutions shall be deemed to be regulated by the same functional regulator; financial institutions regulated by the Securities and Exchange Commission, the United States Department of Labor, or a state securities regulator shall be deemed to be regulated by the same functional regulator; and insurers admitted in this state to transact insurance and licensed to write insurance policies shall be deemed to be in compliance with this paragraph.

(2) The financial institution disclosing the nonpublic personal information and the financial institution receiving it are both principally engaged in the same line of business. For purposes of this subdivision, "same line of business" shall be one and only one of the following:

- (A) Insurance.
- (B) Banking.
- (C) Securities.

(3) The financial institution disclosing the nonpublic personal information and the financial institution receiving it share a common brand, excluding a brand consisting solely of a graphic element or symbol, within their trademark, service mark, or trade name, which is used to identify the source of the products and services provided.

A wholly owned subsidiary shall include a subsidiary wholly owned directly or wholly owned indirectly in a chain of wholly owned subsidiaries.

Nothing in this subdivision shall permit the disclosure by a financial institution of medical record information, as defined in subdivision (q) of Section 791.02 of the Insurance Code, except in compliance with the requirements of this division, including the requirements set forth in subdivisions (a) and (b).

(d) (1) A financial institution shall be conclusively presumed to have satisfied the notice requirements of subdivision (b) if it uses the form set forth in this subdivision. The form set forth in this subdivision or a form that complies with subparagraphs (A) to (L), inclusive, of this paragraph shall be sent by the financial institution to the consumer so that the consumer may make a decision and provide direction to the financial institution regarding the sharing of his or her nonpublic personal information. If a financial institution does not use the form set forth in this subdivision, the financial institution shall use a form that meets all of the following requirements:

(A) The form uses the same title ("IMPORTANT PRIVACY CHOICES FOR CONSUMERS") and the headers, if applicable, as follows: "Restrict Information Sharing With Companies We Own Or Control (Affiliates)" and "Restrict Information Sharing With Other Companies We Do Business With To Provide Financial Products And Services."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form is a separate document, except as provided by subparagraph (D) of paragraph (2), and Sections 4054 and 4058.7.

(D) The choice or choices pursuant to subdivision (b) and Section 4054.6, if applicable, provided in the form are stated separately and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences (an average of 15-20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form achieves a minimum Flesch reading ease score of 50, as defined in Section 2689.4(a)(7) of Title 10 of the California Code of Regulations, in effect on March 24, 2003, except that the information in the form included to comply with subparagraph (A) shall not be included in the calculation of the Flesch reading ease score, and the information used to describe the choice or choices pursuant to subparagraph (D) shall score no lower than the information describing the comparable choice or choices set forth in the form in this subdivision.

(K) The form provides wide margins, ample line spacing and uses boldface or italics for key words.

(L) The form is not more than one page.

(2) (A) None of the instructional items appearing in brackets in the form set forth in this subdivision shall appear in the form provided to the consumer, as those items are for explanation purposes only. If a financial institution does not disclose or share nonpublic personal information as described in a header of the form, the financial institution may omit the applicable header or headers, and the accompanying information and box, in the form it provides pursuant to this subdivision. The form with those omissions shall be conclusively presumed to satisfy the notice requirements of this subdivision.

NOTICE OF INCOMPLETE TEXT: The Important Privacy Choices for Consumers form appears in the hard-copy publication of the chaptered bill. See Sec. 1 of Chapter 241, Statutes of 2003.

(B) If a financial institution uses a form other than that set forth in this subdivision, the financial institution may submit that form to its functional regulator for approval, and for forms filed with the Office of Privacy Protection prior to July 1, 2007, that approval shall constitute a rebuttable presumption that the form complies with this section.

(C) A financial institution shall not be in violation of this subdivision solely because it includes in the form one or more brief examples or explanations of the purpose or purposes, or context, within which information will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(D) The outside of the envelope in which the form is sent to the consumer shall clearly state in 16-point boldface type "IMPORTANT PRIVACY CHOICES," except that a financial institution sending the form to a consumer in the same envelope as a bill, account statement, or application requested by the consumer does not have to include the wording "IMPORTANT PRIVACY CHOICES" on that envelope. The form shall be sent in any of the following ways:

(i) With a bill, other statement of account, or application requested by the consumer, in which case the information required by Title V of the Gramm-Leach-Bliley Act may also be included in the same envelope.

(ii) As a separate notice or with the information required by Title V of the Gramm-Leach-Bliley Act, and including only information related to privacy.

(iii) With any other mailing, in which case it shall be the first page of the mailing.

~~(E) If a financial institution uses a form other than that set forth in this subdivision, that form shall be filed with the Office of Privacy Protection within 30 days after it is first used.~~

(3) The consumer shall be provided a reasonable opportunity prior to disclosure of nonpublic personal information to direct that nonpublic personal information not be disclosed. A consumer

may direct at any time that his or her nonpublic personal information not be disclosed. A financial institution shall comply with a consumer's directions concerning the sharing of his or her nonpublic personal information within 45 days of receipt by the financial institution. When a consumer directs that nonpublic personal information not be disclosed, that direction is in effect until otherwise stated by the consumer. A financial institution that has not provided a consumer with annual notice pursuant to subdivision (b) shall provide the consumer with a form that meets the requirements of this subdivision, and shall allow 45 days to lapse from the date of providing the form in person or the postmark or other postal verification of mailing before disclosing nonpublic personal information pertaining to the consumer.

Nothing in this subdivision shall prohibit the disclosure of nonpublic personal information as allowed by subdivision (c) or Section 4056.

(4) A financial institution may elect to comply with the requirements of subdivision (a) with respect to disclosure of nonpublic personal information to an affiliate or with respect to nonpublic personal information disclosed pursuant to paragraph (2) of subdivision (b), or subdivision (c) of Section 4054.6.

(5) If a financial institution does not have a continuing relationship with a consumer other than the initial transaction in which the product or service is provided, no annual disclosure requirement exists pursuant to this section as long as the financial institution provides the consumer with the form required by this section at the time of the initial transaction. As used in this section, "annually" means at least once in any period of 12 consecutive months during which that relationship exists. The financial institution may define the 12-consecutive-month period, but shall apply it to the consumer on a consistent basis. If, for example, a financial institution defines the 12-consecutive-month period as a calendar year and provides the annual notice to the consumer once in each calendar year, it complies with the requirement to send the notice annually.

(6) A financial institution with assets in excess of twenty-five million dollars (\$25,000,000) shall include a self-addressed first class business reply return envelope with the notice. A financial institution with assets of up to and including twenty-five million dollars (\$25,000,000) shall include a self-addressed return envelope with the notice. In lieu of the first class business reply return envelope required by this paragraph, a financial institution may offer a self-addressed return envelope with the notice and at least two alternative cost-free means for consumers to communicate their privacy choices, such as calling a toll-free number, sending a facsimile to a toll-free telephone number, or using electronic means. A financial institution shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the consumer on how to communicate his or her choices, including the toll-free or facsimile number or Web site address that may be used, if those means of communication are offered by the financial institution.

(7) A financial institution may provide a joint notice from it and one or more of its affiliates or other financial institutions, as identified in the notice, so long as the notice is accurate with respect to the financial institution and the affiliates and other financial institutions.

(e) Nothing in this division shall prohibit a financial institution from marketing its own products and services or the products and services of affiliates or nonaffiliated third parties to customers of the financial institution as long as (1) nonpublic personal information is not disclosed in connection with the delivery of the applicable marketing materials to those customers except as permitted by Section 4056 and (2) in cases in which the applicable nonaffiliated third party may extrapolate nonpublic personal information about the consumer responding to those marketing materials, the applicable nonaffiliated third party has signed a contract with the financial institution under the terms of which (A) the nonaffiliated third party is prohibited from using that information for any purpose other than the purpose for which it was provided, as set forth in the contract, and (B) the financial institution has the right by audit, inspections, or other means to verify the nonaffiliated third party's compliance with that contract.

Amend Health and Safety Code Section 130306 as follows:

130306. (a) The office shall perform the following functions:

(1) Standardizing the HIPAA implementation process used in all state entities, which includes the following:

(A) Developing a master plan and overall state strategy for HIPAA implementation that includes timeframes within which specified activities will be completed.

(B) Specifying tools, such as protocols for assessment and reporting, and any other tools as determined by the director for HIPAA implementation.

(C) Developing uniform policies on privacy, security, and other matters related to HIPAA that shall be adopted and implemented by all state entities. In developing these policies, the office shall consult with representatives from the private sector, state government, and other public entities affected by HIPAA.

(D) Providing an ongoing evaluation of HIPAA implementation in California and refining the plans, tools, and policies as required to effect implementation.

(E) Developing standards for the office to use in determining the extent of HIPAA compliance.

(2) Representing the State of California in HIPAA discussions with the federal Department of Health and Human Services and at the Workgroup for Electronic Data Interchange and other national and regional groups developing standards for HIPAA implementation, including those authorized by the federal Department of Health and Human Services to receive comments related to HIPAA. In preparing comments for submission to these entities, the office shall work in coordination with private and public entities to which the comments relate. The office may review and approve all comments related to HIPAA that state entities or representatives from the University of California, to the extent authorized by its Regents, propose for submission to the federal Department of Health and Human Services or any other body or organization.

(3) Monitoring the HIPAA implementation activities of state entities and requiring these entities to report on their implementation activities at times specified by the director using a format prescribed by the director. The office shall seek the cooperation of counties in monitoring HIPAA implementation in programs that are administered by county government.

(4) Providing state entities with technical assistance as the director deems necessary and appropriate to advance the state's implementation of HIPAA as required by the schedule adopted by the federal Department of Health and Human Services. This assistance shall also include sharing information obtained by the office relating to HIPAA.

(5) Providing the Department of Finance with recommendations on HIPAA implementation expenditures, including proposals submitted by state entities and a recommendation on the amount to be appropriated for allocation by the Department of Finance to entities implementing HIPAA.

(6) Conducting a periodic assessment at least once every three years to determine whether staff positions established in the office and in other state entities to perform HIPAA compliance activities continue to be necessary or whether additional staff positions are required to complete these activities.

(7) Reviewing and approving contracts relating to HIPAA to which a state entity is a party prior to the contract's effective date.

(8) Reviewing and approving all HIPAA legislation proposed by state entities, other than state control agencies, prior to the proposal's review by any other entity and reviewing all analyses and positions, other than those prepared by state control agencies, on HIPAA related legislation being considered by either Congress or the Legislature.

(9) Ensuring state departments claim federal funding for those activities that qualify under federal funding criteria.

(10) Establishing a Web site that is accessible to the public to provide information in a consistent and accessible format concerning state HIPAA implementation activities, timeframes for completing those activities, HIPAA implementation requirements that have been met, and the promulgation of federal regulations pertaining to HIPAA implementation. The office shall update this Web site quarterly.

~~(b) In performing these functions, the office shall coordinate its activities with the State Office of Privacy Protection.~~

Amend Civil Code Section 130306 as follows:

1788.18. (a) Upon receipt from a debtor of all of the following, a debt collector shall cease collection activities until completion of the review provided in subdivision (d):

(1) A copy of a police report filed by the debtor alleging that the debtor is the victim of an identity theft crime, including, but not limited to, a violation of Section 530.5 of the Penal Code, for the specific debt being collected by the debt collector.

(2) The debtor's written statement that the debtor claims to be the victim of identity theft with respect to the specific debt being collected by the debt collector.

(b) The written statement described in paragraph (2) of subdivision (a) shall consist of any of the following:

(1) A Federal Trade Commission's Affidavit of Identity Theft.

~~(2) A written statement that contains the content of the Identity Theft Victim's Fraudulent Account Information Request offered to the public by the California Office of Privacy Protection.~~

~~(3)~~(2) A written statement that certifies that the representations are true, correct, and contain no material omissions of fact to the best knowledge and belief of the person submitting the certification. A person submitting the certification who declares as true any material matter pursuant to this subdivision that he or she knows to be false is guilty of a misdemeanor. The statement shall contain or be accompanied by the following, to the extent that an item listed below is relevant to the debtor's allegation of identity theft with respect to the debt in question:

(A) A statement that the debtor is a victim of identity theft.

(B) A copy of the debtor's driver's license or identification card, as issued by the state.

(C) Any other identification document that supports the statement of identity theft.

(D) Specific facts supporting the claim of identity theft, if available.

(E) Any explanation showing that the debtor did not incur the debt.

(F) Any available correspondence disputing the debt after transaction information has been provided to the debtor.

(G) Documentation of the residence of the debtor at the time of the alleged debt. This may include copies of bills and statements, such as utility bills, tax statements, or other statements from businesses sent to the debtor, showing that the debtor lived at another residence at the time the debt was incurred.

(H) A telephone number for contacting the debtor concerning any additional information or questions, or direction that further communications to the debtor be in writing only, with the mailing address specified in the statement.

(I) To the extent the debtor has information concerning who may have incurred the debt, the identification of any person whom the debtor believes is responsible.

(J) An express statement that the debtor did not authorize the use of the debtor's name or personal information for incurring the debt.

(K) The certification required pursuant to this paragraph shall be sufficient if it is in substantially the following form:

"I certify the representations made are true,
correct,
and
contain no material omissions of fact.

(Signature
(Date and Place))

(c) If a debtor notifies a debt collector orally that he or she is a victim of identity theft, the debt collector shall notify the debtor, orally or in writing, that the debtor's claim must be in writing. If a debtor notifies a debt collector in writing that he or she is a victim of identity theft, but omits information required pursuant to subdivision (a) or, if applicable, the certification required pursuant to paragraph (3) of subdivision (b), if the debt collector does not cease collection activities, the debt collector shall provide written notice to the debtor of the additional information that is required, or the certification required pursuant to paragraph (3) of subdivision (b), as applicable, or send the debtor a copy of the Federal Trade Commission's Affidavit of Identity Theft form.

(d) Upon receipt of the complete statement and information described in subdivision (a), the debt collector shall review and consider all of the information provided by the debtor and other information available to the debt collector in its file or from the creditor. The debt collector may recommence debt collection activities only upon making a good faith determination that the information does not establish that the debtor is not responsible for the specific debt in question. The debt collector's determination shall be made in a manner consistent with the provisions of subsection (1) of Section 1692 of Title 15 of the United States Code, as incorporated by Section 1788.17 of this code. The debt collector shall notify the debtor in writing of that determination and the basis for that determination before proceeding with any further collection activities. The debt collector's determination shall be based on all of the information provided by the debtor and other information available to the debt collector in its file or from the creditor.

(e) No inference or presumption that the debt is valid or invalid, or that the debtor is liable or not liable for the debt, shall arise if the debt collector decides after the review described in subdivision (d) to cease or recommence the debt collection activities. The exercise or nonexercise of rights under this section is not a waiver of any other right or defense of the debtor or debt collector.

(f) The statement and supporting documents that comply with subdivision (a) may also satisfy, to the extent those documents meet the requirements of, the notice requirement of paragraph (5) of subdivision (c) of Section 1798.93.

(g) A debt collector who ceases collection activities under this section and does not recommence those collection activities shall do all of the following:

(1) If the debt collector has furnished adverse information to a consumer credit reporting agency, notify the agency to delete that information.

(2) Notify the creditor that debt collection activities have been terminated based upon the debtor's claim of identity theft.

(h) A debt collector who has possession of documents that the debtor is entitled to request from a creditor pursuant to Section 530.8 of the Penal Code is authorized to provide those documents to the debtor.

(i) Notwithstanding subdivision (h) of Section 1788.2, for the purposes of this section, "debtor" means a natural person, firm, association, organization, partnership, business trust, company, corporation, or limited liability company from which a debt collector seeks to collect a debt that is due and owing or alleged to be due and owing from the person or entity. The remedies provided by this title shall apply equally to violations of this section.